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10/023,317 12/17/2001 Christian Plank VOS-22	2272	
1473 7590 09/07/2005 EXAMI	EXAMINER	
	ANGELL, JON E	
ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 ART UNIT	PAPER NUMBER	
NEW YORK, NY 10020-1105 1635	1635	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Notice of Non-Committee		
Notice of Non-Compliant	10/023,317 Examiner	PLANK ET AL. Art Unit
Amendment (37 CFR 1.121)		
The MAILING DATE of this communication of	Jon Eric Angell	1635
The MAILING DATE of this communication appears on the cover sheet with the correspondence address		
The amendment document filed on <u>17 June 2005</u> is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.		
THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT: 1. Amendments to the specification: A. Amended paragraph(s) do not include markings. B. New paragraph(s) should not be underlined. C. Other		
2. Abstract:A. Not presented on a separate sheet.B. Other	37 CFR 1.72.	
 3. Amendments to the drawings: A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d). B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required. C. Other 		
 ✓ 4. Amendments to the claims: ☐ A. A complete listing of all of the claims ☐ B. The listing of claims does not include ☐ C. Each claim has not been provided w of each claim cannot be identified. In number by using one of the following (Previously presented), (New), (Not ☐ D. The claims of this amendment paper ☒ E. Other: Applicants have not used property 	e the text of all pending claims (incluith the proper status identifier, and a Note: the status of every claim musing status identifiers: (Original), (Currentered), (Withdrawn) and (Withdram) and the company of the presented in ascender marking to denote new or delete	as such, the individual status of be indicated after its claim ently amended), (Canceled), awn-currently amended). ding numerical order. ed characters in claims 1 and 17.
For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .		
TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:		
1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted within the time period set forth in the final Office action.		
 Applicant is given one month, or thirty (30) days, vectorected section of the non-compliant amendment amendment is one of the following: a preliminary a request for continued examination (RCE) under 37 period under 37 CFR 1.103(a) or (c), and an amendment of the section of the	ent in compliance with 37 CFR 1.12 mendment, a non-final amendment CFR 1.114), a supplemental amer	1, if the non-compliant (including a submission for a and and and and and and and and and a
Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.		
Failure to timely respond to this notice will res Abandonment of the application if the non-of- filed in response to a Quayle action; or Non-entry of the amendment if the non-com- amendment.	compliant amendment is a non-final	

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Response to Amendment

The amendment to the claims filed on June 17, 2005 does not comply with the requirements of 37 CFR 1.121(c) because it appears applicants have properly indicated the addition of new characters and/or deletion of characters from the claims as required by 37 CFR 1.121(c). Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states (emphasis added by the Examiner):

- (c) Claims. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).
- (1) Claim listing. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.
- (2) When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."
- (3) When claim text in clean version is required. The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may

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have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

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- (4) When claim text shall not be presented; canceling a claim.
- (i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."
- (ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.
- (5) Reinstatement of previously canceled claim. A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

In the instant situation, the amendment filed June 17, 2005 is improper because claims 1 and 17 contain the recitation "[1]" (see the last line of claim 1 and claim 17), it is noted that the single brackets surrounding the character "l" were not in the previous pending claims. Therefore, Applicants have either added the single brackets as new characters without the required underlining or Applicants have improperly indicated the deletion of the character "l" because double brackets were not used. It is noted that Applicants have properly indicated deletion of "l" in the general formula of claim 1 using double brackets before and after the indicated character (i.e., [[1]], see claim 1, general formula I).

Since the reply filed on June 17, 2005 appears to be bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

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Conclusion

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Eric Angell whose telephone number is 571-272-0756. The examiner can normally be reached 9:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached at 571-272-0760.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-

9199.

J. Eric Angell, PhD Patent Examiner Art Unit 1635